

**House File 278 - Introduced**

HOUSE FILE 278  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HSB 46)

(COMPANION TO SF 184 BY  
COMMITTEE ON HUMAN RESOURCES)

**A BILL FOR**

1 An Act relating to programs and services under the purview of  
2 the department on aging.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 10A.402, subsection 5, Code 2013, is  
2 amended by striking the subsection.

3 Sec. 2. Section 16.182, subsections 1 and 2, Code 2013, are  
4 amended to read as follows:

5 1. A senior living revolving loan program fund is created  
6 within the authority ~~to further the goal of the senior living~~  
7 ~~program as specified in section 249H.2.~~ The moneys in the  
8 senior living revolving loan program fund shall be used by the  
9 authority for the development and operation of a revolving loan  
10 program to provide financing to construct affordable assisted  
11 living and service-enriched affordable housing for seniors and  
12 persons with disabilities, including through new construction  
13 or acquisition and rehabilitation.

14 2. ~~Moneys received by the authority from the senior living~~  
15 ~~trust fund,~~ transferred by the authority for deposit in the  
16 senior living revolving loan program fund, moneys appropriated  
17 to the senior living revolving loan program, and any other  
18 moneys available to and obtained or accepted by the authority  
19 for placement in the senior living revolving loan program fund  
20 shall be deposited in the fund. Additionally, payment of  
21 interest, recaptures of awards, and other repayments to the  
22 senior living revolving loan program fund shall be deposited  
23 in the fund. Notwithstanding section 12C.7, subsection  
24 2, interest or earnings on moneys in the senior living  
25 revolving loan program fund shall be credited to the fund.  
26 Notwithstanding section 8.33, moneys that remain unencumbered  
27 or unobligated at the end of the fiscal year shall not  
28 revert but shall remain available for the same purpose in the  
29 succeeding fiscal year.

30 Sec. 3. Section 16.183, subsection 2, Code 2013, is amended  
31 to read as follows:

32 2. ~~Moneys received by the authority from the senior living~~  
33 ~~trust fund,~~ transferred by the authority for deposit in the  
34 home and community-based services revolving loan program fund,  
35 moneys appropriated to the home and community-based services

1 revolving loan program, and any other moneys available to and  
2 obtained or accepted by the authority for placement in the home  
3 and community-based services revolving loan program fund shall  
4 be deposited in the fund. Additionally, payment of interest,  
5 recaptures of awards, and other repayments to the ~~senior-living~~  
6 home and community-based services revolving loan program fund  
7 shall be deposited in the fund. Notwithstanding section 12C.7,  
8 subsection 2, interest or earnings on moneys in the home and  
9 community-based services revolving loan program fund shall be  
10 credited to the fund. Notwithstanding section 8.33, moneys  
11 that remain unencumbered or unobligated at the end of the  
12 fiscal year shall not revert but shall remain available for the  
13 same purpose in the succeeding fiscal year.

14 Sec. 4. Section 22.7, subsection 62, Code 2013, is amended  
15 to read as follows:

16 62. Records ~~of~~ maintained by the department on aging  
17 ~~pertaining to clients served by the prevention of elder abuse,~~  
18 ~~neglect, and exploitation program~~ or office of long-term  
19 care ombudsman that disclose the identity of a complainant,  
20 resident, tenant, or individual receiving services provided by  
21 the department on aging, an area agency on aging, or the office  
22 of long-term care ombudsman, unless disclosure is otherwise  
23 allowed under section 231.42, subsection 12, paragraph "a".

24 Sec. 5. Section 135C.1, Code 2013, is amended by adding the  
25 following new subsections:

26 NEW SUBSECTION. 1A. "*Certified volunteer long-term care*  
27 *ombudsman*" means a volunteer long-term care ombudsman certified  
28 pursuant to section 231.45.

29 NEW SUBSECTION. 13A. "*Office of long-term care ombudsman*"  
30 means the office of long-term care ombudsman established  
31 pursuant to section 231.42.

32 NEW SUBSECTION. 20A. "*State long-term care ombudsman*"  
33 means the state long-term care ombudsman appointed pursuant to  
34 section 231.42.

35 Sec. 6. Section 135C.11, subsection 2, Code 2013, is amended

1 to read as follows:

2 2. The procedure governing hearings authorized by this  
3 section shall be in accordance with the rules promulgated by  
4 the department. A full and complete record shall be kept  
5 of all proceedings, and all testimony shall be reported but  
6 need not be transcribed unless judicial review is sought  
7 pursuant to section 135C.13. Copies of the transcript may be  
8 obtained by an interested party upon payment of the cost of  
9 preparing the copies. Witnesses may be subpoenaed by either  
10 party and shall be allowed fees at a rate prescribed by the  
11 department's rules. The director may, after advising the  
12 ~~resident advocate committee established pursuant to section~~  
13 ~~135C.25~~ certified volunteer long-term care ombudsman, either  
14 proceed in accordance with section 135C.30, or remove all  
15 residents and suspend the license or licenses of any health  
16 care facility, prior to a hearing, when the director finds that  
17 the health or safety of residents of the health care facility  
18 requires such action on an emergency basis. The fact that ~~no~~  
19 ~~resident advocate committee~~ a certified volunteer long-term  
20 care ombudsman has not been appointed for a particular facility  
21 shall not bar the director from exercising the emergency powers  
22 granted by this subsection with respect to that facility.

23 Sec. 7. Section 135C.13, Code 2013, is amended to read as  
24 follows:

25 **135C.13 Judicial review.**

26 Judicial review of any action of the director may be sought  
27 in accordance with the terms of the Iowa administrative  
28 procedure Act, chapter 17A. Notwithstanding the terms of ~~said~~  
29 ~~Act~~ chapter 17A, petitions for judicial review may be filed in  
30 the district court of the county where the facility or proposed  
31 facility is located, and pending final disposition of the  
32 matter the status quo of the applicant or licensee shall be  
33 preserved except when the director, with the advice and consent  
34 of the ~~resident advocate committee established pursuant to~~  
35 ~~section 135C.25~~ certified volunteer long-term care ombudsman,

1 determines that the health, safety or welfare of the residents  
2 of the facility is in immediate danger, in which case the  
3 director may order the immediate removal of such residents.  
4 The fact that ~~no resident advocate committee~~ a certified  
5 volunteer long-term care ombudsman has not been appointed for a  
6 particular facility shall not bar the director from exercising  
7 the emergency powers granted by this ~~subsection~~ section with  
8 respect to that facility.

9     Sec. 8. Section 135C.14, subsection 8, paragraph d, Code  
10 2013, is amended to read as follows:

11     d. The notification of ~~resident advocate committees~~  
12 certified volunteer long-term care ombudsmen by the department  
13 of all complaints relating to health care facilities and the  
14 involvement of the ~~resident advocate committees~~ certified  
15 volunteer long-term care ombudsmen in resolution of the  
16 complaints.

17     Sec. 9. Section 135C.20A, subsection 2, Code 2013, is  
18 amended to read as follows:

19     2. The report card form shall be developed by the department  
20 in cooperation with representatives of the department on  
21 aging, the state long-term care ~~resident's advocate~~ ombudsman,  
22 representatives of ~~resident advocate committees~~ certified  
23 volunteer long-term care ombudsmen, representatives of  
24 protection and advocacy entities, consumers, and other  
25 interested persons.

26     Sec. 10. Section 135C.20B, subsection 2, paragraph c, Code  
27 2013, is amended to read as follows:

28     c. Any information submitted by ~~care review committee~~  
29 ~~members or~~ residents with regard to the quality of care of the  
30 facility.

31     Sec. 11. Section 135C.37, Code 2013, is amended to read as  
32 follows:

33     **135C.37 Complaints alleging violations — confidentiality.**

34     A person may request an inspection of a health care facility  
35 by filing with the department, ~~resident advocate committee of~~

1 ~~the facility~~ certified volunteer long-term care ombudsman, or  
 2 the office of long-term care ~~resident's advocate as established~~  
 3 ~~pursuant to section 231.42~~ ombudsman, a complaint of an alleged  
 4 violation of applicable requirements of this chapter or the  
 5 rules adopted pursuant to this chapter. A person alleging  
 6 abuse or neglect of a resident with a developmental disability  
 7 or with mental illness may also file a complaint with the  
 8 protection and advocacy agency designated pursuant to section  
 9 135B.9 or section 135C.2. A copy of a complaint filed with ~~the~~  
 10 ~~resident advocate committee~~ a certified volunteer long-term  
 11 care ombudsman or the office of long-term care ~~resident's~~  
 12 ~~advocate~~ ombudsman shall be forwarded to the department. The  
 13 complaint shall state in a reasonably specific manner the  
 14 basis of the complaint, and a statement of the nature of the  
 15 complaint shall be delivered to the facility involved at the  
 16 time of the inspection. The name of the person who files a  
 17 complaint with the department, ~~resident advocate committee~~  
 18 certified volunteer long-term care ombudsman, or the office  
 19 of long-term care ~~resident's advocate~~ ombudsman shall be kept  
 20 confidential and shall not be subject to discovery, subpoena,  
 21 or other means of legal compulsion for its release to a person  
 22 other than department employees involved in the investigation  
 23 of the complaint.

24 Sec. 12. Section 135C.38, subsection 1, paragraphs a and c,  
 25 Code 2013, are amended to read as follows:

26 a. Upon receipt of a complaint made in accordance with  
 27 section 135C.37, the department or ~~resident advocate committee~~  
 28 certified volunteer long-term care ombudsman shall make a  
 29 preliminary review of the complaint. Unless the department  
 30 or ~~committee~~ certified volunteer long-term care ombudsman  
 31 concludes that the complaint is intended to harass a facility  
 32 or a licensee or is without reasonable basis, the department or  
 33 ~~committee~~ certified volunteer long-term care ombudsman shall  
 34 make or cause to be made an on-site inspection of the health  
 35 care facility which is the subject of the complaint within the

1 time period determined pursuant to the following guidelines,  
2 which period shall commence on the date of receipt of the  
3 complaint:

4 (1) For nursing facilities, an on-site inspection shall be  
5 initiated as follows:

6 (a) Within two working days for a complaint determined by  
7 the department or ~~committee~~ certified volunteer long-term care  
8 ombudsman to be an alleged immediate jeopardy situation.

9 (b) Within ten working days for a complaint determined by  
10 the department or ~~committee~~ certified volunteer long-term care  
11 ombudsman to be an alleged high-level, nonimmediate jeopardy  
12 situation.

13 (c) Within forty-five calendar days for a complaint  
14 determined by the department or ~~committee~~ certified volunteer  
15 long-term care ombudsman to be an alleged nonimmediate jeopardy  
16 situation, other than a high-level situation.

17 (2) For all other types of health care facilities, an  
18 on-site inspection shall be initiated as follows:

19 (a) Within two working days for a complaint determined by  
20 the department or ~~committee~~ certified volunteer long-term care  
21 ombudsman to be an alleged immediate jeopardy situation.

22 (b) Within twenty working days for a complaint determined by  
23 the department or ~~committee~~ certified volunteer long-term care  
24 ombudsman to be an alleged high-level, nonimmediate jeopardy  
25 situation.

26 (c) Within forty-five calendar days for a complaint  
27 determined by the department or ~~committee~~ certified volunteer  
28 long-term care ombudsman to be an alleged nonimmediate jeopardy  
29 situation, other than a high-level situation.

30 c. The department may refer to the ~~resident advocate~~  
31 ~~committee~~ certified volunteer long-term care ombudsman of a  
32 facility any complaint received by the department regarding  
33 that facility, for initial evaluation and appropriate action by  
34 the ~~committee~~ certified volunteer long-term care ombudsman.

35 Sec. 13. Section 135C.38, subsection 2, paragraphs a and d,

1 Code 2013, are amended to read as follows:

2     *a.* The complainant shall be promptly informed of the  
3 result of any action taken by the department or ~~committee~~  
4 certified volunteer long-term care ombudsman in the matter.

5 The complainant shall also be notified of the name, address,  
6 and telephone number of the designated protection and advocacy  
7 agency if the alleged violation involves a facility with one  
8 or more residents with developmental disabilities or mental  
9 illness.

10     *d.* A person who is dissatisfied with any aspect of the  
11 department's handling of the complaint may contact the office  
12 of long-term care ~~resident's advocate, established pursuant to~~  
13 ~~section 231.42~~ ombudsman, or may contact the protection and  
14 advocacy agency designated pursuant to section 135C.2 if the  
15 complaint relates to a resident with a developmental disability  
16 or a mental illness.

17     Sec. 14. Section 135C.38, subsections 3 and 4, Code 2013,  
18 are amended to read as follows:

19     3. An inspection made pursuant to a complaint filed under  
20 section 135C.37 need not be limited to the matter or matters  
21 included in the complaint. However, the inspection shall  
22 not be a general inspection unless the complaint inspection  
23 coincides with a scheduled general inspection or unless in the  
24 course of the complaint investigation a violation is evident to  
25 the inspector. Upon arrival at the facility to be inspected,  
26 the inspector shall show identification to the person in charge  
27 of the facility and state that an inspection is to be made,  
28 before beginning the inspection. Upon request of either the  
29 complainant or the department or ~~committee~~ certified volunteer  
30 long-term care ombudsman, the complainant or the complainant's  
31 representative or both may be allowed the privilege of  
32 accompanying the inspector during any on-site inspection  
33 made pursuant to this section. The inspector may cancel the  
34 privilege at any time if the inspector determines that the  
35 privacy of any resident of the facility to be inspected would

1 otherwise be violated. The protection and dignity of the  
2 resident shall be given first priority by the inspector and  
3 others.

4 4. If upon an inspection of a facility by its ~~resident~~  
5 ~~advocate committee~~ certified volunteer long-term care ombudsman  
6 pursuant to this section, the ~~committee~~ certified volunteer  
7 long-term care ombudsman advises the department of any  
8 circumstance believed to constitute a violation of this chapter  
9 or of any rule adopted pursuant to it, the ~~committee~~ certified  
10 volunteer long-term care ombudsman shall similarly advise the  
11 facility at the same time. If the facility's licensee or  
12 administrator disagrees with the conclusion of the ~~committee~~  
13 certified volunteer long-term care ombudsman regarding the  
14 supposed violation, an informal conference may be requested and  
15 if requested shall be arranged by the department as provided in  
16 section 135C.42 before a citation is issued. If the department  
17 thereafter issues a citation pursuant to the ~~committee's~~  
18 certified volunteer long-term care ombudsman's finding, the  
19 facility shall not be entitled to a second informal conference  
20 on the same violation and the citation shall be considered  
21 affirmed. The facility cited may proceed under section 135C.43  
22 if it so desires.

23 Sec. 15. Section 225C.4, subsection 1, paragraph m, Code  
24 2013, is amended to read as follows:

25 *m.* Provide consultation and technical assistance to  
26 patients' advocates appointed pursuant to section 229.19, in  
27 cooperation with the judicial branch and the ~~resident advocate~~  
28 ~~committees appointed for health care facilities~~ certified  
29 volunteer long-term care ombudsmen certified pursuant to  
30 section ~~135C.25~~ 231.45.

31 Sec. 16. Section 227.2, subsection 2, Code 2013, is amended  
32 to read as follows:

33 2. A copy of the written report prescribed by subsection 1  
34 shall be furnished to the county board of supervisors, to the  
35 county mental health and intellectual disability coordinating

1 board or to its advisory board if the county board of  
2 supervisors constitutes ex officio the coordinating board, to  
3 the administrator of the county care facility inspected and to  
4 its ~~resident advocate committee~~ certified volunteer long-term  
5 care ombudsman, and to the department on aging.

6 Sec. 17. Section 227.4, Code 2013, is amended to read as  
7 follows:

8 **227.4 Standards for care of persons with mental illness or an**  
9 **intellectual disability in county care facilities.**

10 The administrator, in cooperation with the department of  
11 inspections and appeals, shall recommend and the mental health  
12 and disability services commission created in section 225C.5  
13 shall adopt standards for the care of and services to persons  
14 with mental illness or an intellectual disability residing in  
15 county care facilities. The standards shall be enforced by  
16 the department of inspections and appeals as a part of the  
17 licensure inspection conducted pursuant to chapter 135C. The  
18 objective of the standards is to ensure that persons with  
19 mental illness or an intellectual disability who are residents  
20 of county care facilities are not only adequately fed, clothed,  
21 and housed, but are also offered reasonable opportunities for  
22 productive work and recreational activities suited to their  
23 physical and mental abilities and offering both a constructive  
24 outlet for their energies and, if possible, therapeutic  
25 benefit. When recommending standards under this section,  
26 the administrator shall designate an advisory committee  
27 representing administrators of county care facilities, county  
28 mental health and developmental disabilities regional planning  
29 councils, and county care facility ~~resident advocate committees~~  
30 certified volunteer long-term care ombudsmen to assist in the  
31 establishment of standards.

32 Sec. 18. Section 231.4, subsection 1, Code 2013, is amended  
33 to read as follows:

34 1. For purposes of this chapter, unless the context  
35 otherwise requires:

- 1     ~~a.~~    a.    "Administrative action" means an action or decision made  
2 by an owner, employee, or agent of a long-term care facility,  
3 assisted living program, elder group home, or by a governmental  
4 agency, which affects the service provided to residents or  
5 tenants covered in this chapter.
- 6     ~~b.~~    b.    "Assisted living program" means a program which provides  
7 assisted living as defined pursuant to section 231C.2 and which  
8 is certified under chapter 231C.
- 9     ~~c.~~    c.    "Certified volunteer long-term care ombudsman" or  
10 "certified volunteer" means a volunteer long-term care ombudsman  
11 certified pursuant to section 231.45.
- 12     ~~e.~~    d.    "Commission" means the commission on aging.
- 13     ~~d.~~    e.    "Department" means the department on aging.
- 14     ~~e.~~    f.    "Director" means the director of the department on  
15 aging.
- 16     ~~f.~~    g.    "Elder group home" means elder group home as defined  
17 in section 231B.1 which is certified under chapter 231B.
- 18     ~~g.~~    h.    "Equivalent support" means in-kind contributions  
19 of services, goods, volunteer support time, administrative  
20 support, or other support reasonably determined by the  
21 department as equivalent to a dollar amount.
- 22     ~~h.~~    i.    "Federal Act" means the Older Americans Act of 1965,  
23 42 U.S.C. § 3001 et seq., as amended.
- 24     ~~i.~~    j.    "Home and community-based services" means a continua  
25 of services available in an individual's home or community  
26 which include but are not limited to case management,  
27 homemaker, home health aide, personal care, adult day,  
28 respite, home delivered meals, nutrition counseling, and other  
29 medical and social services which contribute to the health and  
30 well-being of individuals and their ability to reside in a home  
31 or community-based care setting.
- 32     ~~j.~~    k.    "Legal representative" means a tenant's legal  
33 representative as defined in section 231B.1 or 231C.2, or a  
34 guardian, conservator, or attorney in fact of a resident.
- 35     ~~k.~~    l.    "Long-term care facility" means a long-term care

1 unit of a hospital or a facility licensed under section 135C.1  
2 whether the facility is public or private.

3 m. "Long-term care ombudsman" means an advocate for  
4 residents and tenants of long-term care facilities, assisted  
5 living programs, and elder group homes who carries out duties  
6 as specified in this chapter.

7 ~~l.~~ n. "Older individual" means an individual who is sixty  
8 years of age or older.

9 o. "Options counseling" means a service involving an  
10 interactive process, which may include a needs assessment,  
11 directed by the recipient individual and which may include  
12 other participants of the individual's choosing and the  
13 individual's legal representative, in which the individual  
14 receives guidance to make informed choices about long-term  
15 living services and supports in order to sustain independent  
16 living.

17 ~~m.~~ p. "Resident" means a resident or tenant of an  
18 individual residing in a long-term care facility, assisted  
19 living program, or elder group home, excluding facilities  
20 licensed primarily to serve persons with an intellectual  
21 disability or mental illness.

22 q. "Tenant" means an individual who receives assisted living  
23 services through an assisted living program or an individual  
24 who receives elder group home services through an elder group  
25 home.

26 ~~n.~~ r. "Unit of general purpose local government" means the  
27 governing body of a city, county, township, metropolitan area,  
28 or region within the state that has a population of one hundred  
29 thousand or more, that is recognized for areawide planning, and  
30 that functions as a political subdivision of the state whose  
31 authority is general and not limited to only one function or  
32 combination of related functions, or a tribal organization.

33 Sec. 19. Section 231.23A, subsection 2, Code 2013, is  
34 amended to read as follows:

35 2. The ~~senior internship~~ older American community service

1 employment program.

2 Sec. 20. Section 231.23A, subsection 7, Code 2013, is  
3 amended by striking the subsection.

4 Sec. 21. Section 231.32, Code 2013, is amended by adding the  
5 following new subsection:

6 NEW SUBSECTION. 5. Upon designation, an area agency on  
7 aging shall be considered an instrumentality of the state and  
8 shall adhere to all state and federal mandates applicable to an  
9 instrumentality of the state.

10 Sec. 22. Section 231.33, Code 2013, is amended by adding the  
11 following new subsection:

12 NEW SUBSECTION. 21. Comply with all applicable  
13 requirements of the Iowa public employees' retirement system  
14 established pursuant to chapter 97B.

15 Sec. 23. Section 231.41, Code 2013, is amended to read as  
16 follows:

17 **231.41 Purpose.**

18 The purpose of this subchapter is to establish and provide  
19 for the operation of the office of long-term care ~~resident's~~  
20 advocate ombudsman; to carry out, through the office, a state  
21 long-term care ombudsman program within the department in  
22 accordance with the requirements of the federal Act~~7~~; and to  
23 adopt the supporting federal regulations and guidelines for its  
24 operation.

25 Sec. 24. Section 231.42, Code 2013, is amended to read as  
26 follows:

27 **231.42 Office of long-term care ~~resident's advocate~~ ombudsman**  
28 **— duties — penalties for violations.**

29 1. *Office established.* The office of long-term care  
30 ~~resident's advocate~~ ombudsman is established within the  
31 department, in accordance with ~~section 712 of~~ the federal  
32 Act, as ~~codified at 42 U.S.C. § 3058g~~ and state law. The  
33 office shall consist of the state long-term care ~~resident's~~  
34 ~~advocate and~~ ombudsman, any local long-term care ~~resident's~~  
35 ~~advocates~~ ombudsmen, and any certified volunteer long-term care

1 ombudsmen.

2 2. ~~State long-term care resident's advocate~~ ombudsman. The  
3 director of the department shall appoint the state long-term  
4 care ~~resident's advocate~~ ombudsman who shall do all of the  
5 following:

6 a. Establish and implement a statewide confidential  
7 uniform reporting system for receiving, analyzing, referring,  
8 investigating, and resolving complaints about administrative  
9 actions and the health, safety, welfare, and rights of  
10 residents or tenants of long-term care facilities, assisted  
11 living programs, and elder group homes, excluding facilities  
12 licensed primarily to serve persons with an intellectual  
13 disability or mental illness.

14 b. Publicize the office of long-term care ~~resident's~~  
15 ~~advocate~~ ombudsman and provide information and education to  
16 consumers, the public, and other agencies about issues related  
17 to long-term care in Iowa.

18 c. Monitor the development and implementation of federal,  
19 state, and local laws, regulations, and policies that relate to  
20 long-term care in Iowa.

21 d. Annually report to the governor and general assembly  
22 on the activities of the office and make recommendations for  
23 improving the health, safety, welfare, and rights of residents  
24 and tenants ~~of long-term care facilities, assisted living~~  
25 ~~programs, and elder group homes.~~

26 e. Cooperate with persons and public or private agencies  
27 with regard to, and participate in, inquiries, meetings,  
28 or studies that may lead to improvements in the health,  
29 safety, welfare, and rights of residents and tenants ~~and the~~  
30 ~~functioning of long-term care facilities, assisted living~~  
31 ~~programs, and elder group homes.~~

32 ~~f. Recruit, train, educate, support, and monitor volunteers~~  
33 ~~associated with the office.~~

34 3. ~~Local long-term care resident's advocates~~ ombudsmen. The  
35 local long-term care ~~resident's advocates~~ ombudsmen established

1 pursuant to this section shall do all of the following:

2     *a.* Accept, investigate, verify, and work to resolve  
3 complaints, ~~whether reported to or initiated by a long-term~~  
4 ~~care resident's advocate,~~ relating to any action or inaction  
5 that may adversely affect the health, safety, welfare, or  
6 rights of residents or tenants of ~~a long-term care facility,~~  
7 ~~assisted living program, or elder group home.~~

8     *b.* Provide information about long-term care, the rights of  
9 residents and tenants, payment sources for care, and selection  
10 of a long-term care facility, assisted living program, or elder  
11 group home to providers, consumers, family members, volunteers,  
12 and the public.

13     *c.* Make referrals to appropriate licensing, certifying, and  
14 enforcement agencies to assure appropriate investigation of  
15 abuse complaints and corrective actions.

16     *d.* Assist in the ~~recruitment,~~ training, and education,  
17 ~~support, and monitoring of~~ certified volunteers associated with  
18 the office of the long-term care ~~resident's advocate~~ ombudsman.

19     *e.* Make noncomplaint-related visits to long-term care  
20 facilities, assisted living programs, and elder group homes  
21 to observe daily routines, meals, and activities, and work to  
22 resolve complaints if any are identified during these visits.

23     4. *Referrals of abuse, neglect, or exploitation.*

24     *a.* If abuse, neglect, or exploitation of a resident  
25 or tenant of ~~a long-term care facility, assisted living~~  
26 ~~program, or elder group home~~ is suspected, the state or a  
27 local long-term care ~~resident's advocate~~ ombudsman shall, with  
28 the permission of the resident or tenant as applicable under  
29 federal law, make an immediate referral to the department of  
30 inspections and appeals, ~~or~~ the department of human services as  
31 ~~applicable, and to,~~ the department on aging, or the appropriate  
32 law enforcement agency, as applicable. The state or a local  
33 long-term care ~~resident's advocate~~ ombudsman shall cooperate,  
34 if requested, with the department of inspections and appeals,  
35 department of human services, department on aging, or any law

1 enforcement agency pursuant to any investigation of such abuse,  
2 neglect, or exploitation.

3     *b.* If the department of inspections and appeals responds  
4 to a complaint referred by the state or a local long-term  
5 care ~~resident's advocate~~ ombudsman against a long-term care  
6 facility, assisted living program, elder group home, or  
7 an employee of such entity, copies of related inspection  
8 reports, plans of correction, and notice of any citations and  
9 sanctions levied against the facility, program, or home shall  
10 be forwarded to the office of the long-term care ~~resident's~~  
11 advocate ombudsman.

12     5. *Access to long-term care facility, assisted living*  
13 *program, or elder group home and residents and tenants.* The  
14 state or a local long-term care ~~resident's advocate~~ ombudsman  
15 or a ~~trained~~ certified volunteer may enter any long-term care  
16 facility, assisted living program, or elder group home at any  
17 time with or without prior notice or complaint and shall be  
18 granted access to residents and tenants at all times for the  
19 purpose of carrying out the duties specified in this section.  
20 As used in this section, "access" means the right to do all of  
21 the following:

22     *a.* Enter any long-term care facility, assisted living  
23 program, or elder group home and provide identification.

24     *b.* Seek consent from the resident, tenant, or legal  
25 representative to communicate privately and without restriction  
26 with any resident, ~~or~~ tenant, or legal representative.

27     *c.* Communicate privately and without restriction with  
28 any resident, tenant, or legal representative, ~~or other~~  
29 ~~representative who consents to communication.~~

30     *d.* Review the ~~clinical~~ medical, social, or other records of  
31 a resident or tenant.

32     *e.* Observe all resident or tenant areas of a long-term care  
33 facility, assisted living program, or housing establishment  
34 elder group home except the living area of any resident or  
35 tenant who protests the observation.

1     6. Access to medical and ~~personal~~ social records.

2     a. The state or a local long-term care ~~resident's advocate~~  
3 ombudsman shall have access to the medical and ~~personal~~ social  
4 records of ~~an individual who is~~ a resident or tenant of a  
5 ~~long-term care facility, assisted living program, or elder~~  
6 ~~group home retained by the facility, program, or home.,~~ if any  
7 of the following applies:

8       (1) The state or local long-term care ombudsman or certified  
9 volunteer long-term care ombudsman has the permission of the  
10 resident or tenant, or the legal representative of the resident  
11 or tenant.

12       (2) The resident or tenant is unable to consent to the  
13 access and has no legal representative.

14       (3) Access to the records is necessary to investigate a  
15 complaint if all of the following apply:

16       (a) A legal representative of the resident or tenant refuses  
17 to give the permission.

18       (b) The state or local long-term care ombudsman or a  
19 certified volunteer long-term care ombudsman has reasonable  
20 cause to believe that the legal representative is not acting in  
21 the best interest of the resident or tenant.

22       (c) The local long-term care ombudsman or a certified  
23 volunteer long-term care ombudsman obtains the approval of the  
24 state long-term care ombudsman.

25     b. Records may be reproduced by the state or a local  
26 long-term care ~~resident's advocate~~ ombudsman.

27     c. Upon request of the state or a local long-term care  
28 ~~resident's advocate~~ ombudsman, a long-term care facility,  
29 assisted living program, or elder group home shall provide the  
30 name, address, and telephone number of the legal representative  
31 or next of kin of any resident or tenant.

32     d. A long-term care facility, assisted living program, or  
33 elder group home or personnel of such a facility, program, or  
34 home who discloses records in compliance with this section and  
35 the procedures adopted pursuant to this section shall not be

1 liable for such disclosure.

2 7. Access to administrative records.

3 a. Pursuant to the federal Act, the state or a local  
4 long-term care ombudsman or a certified volunteer shall have  
5 access to the administrative records, policies, and documents  
6 of the long-term care facility, assisted living program, or  
7 elder group home, which are accessible to residents, tenants,  
8 or the general public.

9 b. Pursuant to the federal Act, the state or a local  
10 long-term care ombudsman or a certified volunteer shall have  
11 access to, and upon request, copies of, all licensing and  
12 certification records maintained by the state with respect to  
13 a long-term care facility, assisted living program, or elder  
14 group home.

15 ~~7.~~ 8. Interference prohibited — penalties.

16 a. An officer, owner, director, or employee of a long-term  
17 care facility, assisted living program, or elder group home who  
18 intentionally prevents, interferes with, or attempts to impede  
19 the work of the state or a local long-term care resident's  
20 advocate ombudsman or a certified volunteer is subject to a  
21 penalty imposed by the director of not more than one thousand  
22 five hundred dollars for each violation. If the director  
23 imposes a penalty for a violation under this paragraph,  
24 no other state agency shall impose a penalty for the same  
25 interference violation. Any moneys collected pursuant to this  
26 subsection shall be deposited in the general fund of the state.

27 b. The office of the long-term care resident's advocate  
28 ombudsman shall adopt rules specifying procedures for notice  
29 and appeal of penalties imposed pursuant to this subsection.

30 c. The director, in consultation with the office of the  
31 long-term care resident's advocate ombudsman, shall notify  
32 the county attorney of the county in which the long-term care  
33 facility, assisted living program, or elder group home is  
34 located, or the attorney general, of any violation of this  
35 subsection.

1     ~~8.~~ 9. *Retaliation prohibited — penalties.* An officer,  
2 owner, director, or employee of a long-term care facility,  
3 assisted living program, or elder group home shall not  
4 retaliate against any person for having filed a complaint with,  
5 or provided information to, the state or a local long-term  
6 care ~~resident's advocate~~ ombudsman or a certified volunteer.  
7 A person who retaliates or discriminates in violation of this  
8 subsection is guilty of a simple misdemeanor.

9     ~~9.~~ 10. *Change in operations.* A long-term care facility,  
10 assisted living program, or elder group home shall inform the  
11 office of ~~the long-term care resident's advocate~~ ombudsman  
12 in writing at least thirty days prior to any change in  
13 operations, programs, services, licensure, or certification  
14 that affects residents or tenants, including but not limited  
15 to the intention to close, decertify, or change ownership. In  
16 an emergency situation, or when a long-term care facility,  
17 assisted living program, or elder group home is evacuated, the  
18 department of inspections and appeals shall notify the office  
19 of ~~the state long-term care resident's advocate~~ ombudsman.

20     ~~10.~~ 11. *Immunity.* The state or a local long-term care  
21 ~~resident's advocate~~ ombudsman, certified volunteer, or any  
22 representative of the office participating in the good faith  
23 performance of their official duties shall have immunity from  
24 any civil or criminal liability that otherwise might result by  
25 reason of taking, investigating, or pursuing a complaint under  
26 this section.

27     ~~11.~~ 12. *Confidentiality.*

28     a. Information relating to any complaint made to or  
29 investigation by the state or a local long-term care ~~resident's~~  
30 ~~advocate~~ ombudsman or certified volunteer that discloses the  
31 identity of a complainant, resident, or tenant, ~~or;~~ information  
32 related to a resident's or tenant's ~~personal~~ social or medical  
33 ~~records;~~ or files maintained by the state long-term care  
34 ombudsman program that disclose the identity of a complainant,  
35 resident, or tenant, shall remain confidential ~~except as~~

1 ~~follows~~ and shall not be disclosed unless any of the following  
2 applies:

3 ~~a. If permission is granted by the director in consultation~~  
4 ~~with the state long-term care resident's advocate.~~

5 ~~b. If disclosure is authorized in writing by the complainant~~  
6 ~~and the resident, tenant, or the individual's guardian or legal~~  
7 ~~representative.~~

8 ~~c. If disclosure is necessary for the provision of services~~  
9 ~~to a resident or tenant, or the resident or tenant is unable to~~  
10 ~~express written or oral consent.~~

11 ~~d. If ordered by a court.~~

12 (1) The complainant, resident, tenant, or a legal  
13 representative consents to the disclosure and the consent is  
14 given in writing.

15 (2) The complainant, resident, or tenant gives consent  
16 orally and the consent is documented contemporaneously in a  
17 writing made by the state long-term care ombudsman or a local  
18 long-term care ombudsman.

19 (3) The disclosure is required by a court order.

20 b. The department shall adopt rules pursuant to chapter 17A  
21 to administer this subsection.

22 ~~12.~~ 13. Posting of state long-term care resident's advocate  
23 ombudsman information. Every long-term care facility, assisted  
24 living program, and elder group home shall post information  
25 in a prominent location that includes the name, address, and  
26 telephone number, and a brief description of the services  
27 provided by the office of the long-term care resident's  
28 advocate ombudsman. The information posted shall be approved  
29 or provided by the office of the long-term care resident's  
30 advocate ombudsman.

31 Sec. 25. Section 231.45, Code 2013, is amended to read as  
32 follows:

33 **231.45 Certified volunteer long-term care ~~resident's advocate~~**  
34 **ombudsman program.**

35 1. The department shall establish a certified volunteer

1 long-term care ~~resident's advocate~~ ombudsman program in  
2 accordance with the federal Act to provide assistance to the  
3 state and local long-term care ~~resident's advocates~~ ombudsmen.

4 2. The department shall develop and implement a  
5 certification process for volunteer long-term care ~~resident's~~  
6 ~~advocates~~ ombudsmen including but not limited to an application  
7 process, provision for background checks, classroom or on-site  
8 training, orientation, and continuing education.

9 3. Unless specifically excluded, the provisions of  
10 section 231.42 relating to local long-term care ~~resident's~~  
11 ~~advocates~~ ombudsmen shall apply to certified volunteer  
12 long-term care ~~resident's advocates~~ ombudsmen.

13 4. The department shall adopt rules pursuant to chapter 17A  
14 to administer this section.

15 Sec. 26. Section 231.51, subsections 1, 3, and 4, Code 2013,  
16 are amended to read as follows:

17 1. The department shall direct and administer the older  
18 American community service employment program as authorized  
19 by the federal Act in coordination with the department of  
20 workforce development ~~and the economic development authority~~.

21 3. Funds appropriated to the department from the United  
22 States department of labor shall be distributed to ~~local~~  
23 ~~projects~~ subgrantees in accordance with federal requirements.

24 4. The department shall require such uniform reporting  
25 and financial accounting by ~~area agencies on aging and local~~  
26 ~~projects~~ subgrantees as may be necessary to fulfill the  
27 purposes of this section.

28 Sec. 27. Section 231.53, Code 2013, is amended to read as  
29 follows:

30 **231.53 Coordination with Workforce Investment Act.**

31 The ~~senior internship~~ older American community service  
32 employment program shall be coordinated with the federal  
33 Workforce Investment Act administered by the department of  
34 workforce development.

35 Sec. 28. Section 231.56A, Code 2013, is amended to read as

1 follows:

2     **231.56A Prevention of elder abuse, neglect, and exploitation**  
3 **program.**

4     1. The department shall administer the prevention of elder  
5 abuse, neglect, and exploitation program in accordance with the  
6 requirements of the federal Act. The purpose of the program  
7 is to carry out activities for intervention in, investigation  
8 of, and response to elder abuse, neglect, and exploitation  
9 including financial exploitation.

10    ~~2. The target population of the program shall be any~~  
11 ~~older individual residing in Iowa who is at risk of or who~~  
12 ~~is experiencing abuse, neglect, or exploitation including~~  
13 ~~financial exploitation.~~

14    ~~3. The contractor implementing the program shall identify~~  
15 ~~emergency shelter and support services, state funding,~~  
16 ~~outcomes, reporting requirements, and approved community~~  
17 ~~resources from which services may be obtained.~~

18    ~~4. The contractor shall implement the program and shall~~  
19 ~~coordinate the provider network through the use of referrals or~~  
20 ~~other engagement of community resources to provide services to~~  
21 ~~older individuals.~~

22    ~~5.~~ 2. The department shall adopt rules to implement this  
23 section.

24    Sec. 29. Section 231.64, Code 2013, is amended to read as  
25 follows:

26     **231.64 Aging and disability resource center program.**

27     1. The aging and disability resource center program shall  
28 be administered by the department consistent with the federal  
29 Act. The department shall designate participating entities  
30 to establish a coordinated system for providing all of the  
31 following:

32     a. Comprehensive information, referral, and assistance  
33 regarding the full range of available public and private  
34 long-term care programs, options, service providers, and  
35 resources within a community, including information on the

1 availability of integrated long-term care.

2     **b. Personal Options** counseling to assist individuals in  
3 assessing their existing or anticipated long-term care needs  
4 and developing and implementing a plan for long-term care  
5 designed to meet their specific needs and circumstances.  
6 The plan for long-term care may include support with  
7 person-centered care transitions to assist consumers and family  
8 caregivers with transitions between home and care settings.

9     **c. Consumer access to the range of publicly-supported**  
10 long-term care programs for which consumers may be eligible, by  
11 serving as a convenient point of entry for such programs.

12     2. The aging and disability resource center ~~program~~  
13 shall assist older individuals, persons with disabilities  
14 age eighteen or older, family caregivers, and people who  
15 inquire about or request assistance on behalf of members of  
16 these groups, as they seek long-term care living services and  
17 community supports.

18     Sec. 30. Section 231B.1, subsection 10, Code 2013, is  
19 amended to read as follows:

20     10. "*Tenant advocate*" means the office of the long-term care  
21 ~~resident's advocate~~ ombudsman established in section 231.42.

22     Sec. 31. Section 231C.2, subsection 15, Code 2013, is  
23 amended to read as follows:

24     15. "*Tenant advocate*" means the office of long-term care  
25 ~~resident's advocate~~ ombudsman established in section 231.42.

26     Sec. 32. Section 235B.6, subsection 2, paragraph e,  
27 subparagraph (10), Code 2013, is amended to read as follows:

28     (10) The state or a local long-term care ~~resident's advocate~~  
29 ombudsman if the victim resides in a ~~long-term care facility~~  
30 or the alleged perpetrator is an employee of a long-term care  
31 facility as defined in section 231.4.

32     Sec. 33. Section 669.14, subsection 12, Code 2013, is  
33 amended to read as follows:

34     12. Any claim based upon the actions of a ~~resident advocate~~  
35 committee member certified volunteer long-term care ombudsman

1 in the performance of duty if the action is undertaken and  
2 carried out in good faith.

3 Sec. 34. REPEAL. Sections 135C.25, 231.44, 231.52, and  
4 231B.19, Code 2013, are repealed.

5 Sec. 35. REPEAL. Chapter 249H, Code 2013, is repealed.

6 EXPLANATION

7 This bill includes provisions relating to programs and  
8 services under the purview of the department on aging (IDA).

9 The bill eliminates a provision relating to the duties  
10 of the administrator of the investigations division of the  
11 department of inspections and appeals. The provision directs  
12 the administrator to coordinate investigations relative to the  
13 operations of IDA. The language potentially conflicts with the  
14 autonomy of the office of state long-term care ombudsman.

15 The bill amends the language relating to confidential  
16 records under the purview of IDA. The bill replaces the  
17 protection of records of IDA pertaining to only one program, to  
18 instead protect documents maintained by IDA or the office of  
19 long-term care ombudsman that identify a complainant, resident,  
20 or individual pertaining to assistance provided by IDA, an area  
21 agency on aging, or the office, unless otherwise exempt from  
22 confidentiality protections.

23 The bill changes the term "resident advocate" to ombudsman  
24 throughout the Code, removes references to "care review  
25 committee", which no longer exists, and changes references in  
26 the Code to conform with changes made with the enactment of  
27 Code section 231.45 by the 2012 general assembly by replacing  
28 "resident advocate committee" with "certified volunteer  
29 long-term care ombudsman" throughout the Code.

30 The bill includes new definitions for "long-term care  
31 ombudsman", "options counseling", and "tenant" in Code chapter  
32 231 (department on aging — older Iowans); includes a provision  
33 establishing that area agencies on aging are instrumentalities  
34 of the state based on a number of opinions of the attorney  
35 general (1980 Op. Att'y Gen 51; 1980 Op. Att'y Gen 317; 1984

1 Op. Att'y Gen 140; 1988 Op. Att'y Gen 1; and 1993 Op. Att'y  
2 Gen 71); and includes a conforming provision to the provision  
3 in Code chapter 97B (Iowa public employees' retirement system  
4 (IPERS)) in Code chapter 231 including area agencies on aging  
5 in the definition of "employer" under IPERS.

6 The bill amends provisions relating to confidentiality  
7 regarding complaints and investigations, and relating to access  
8 of the state or local long-term care ombudsman and certified  
9 volunteers to the locations of long-term care facilities,  
10 assisted living programs, and elder group homes as well as to  
11 medical, social, and administrative records of residents and  
12 tenants of these entities to carry out their duties, consistent  
13 with the federal Older Americans Act.

14 The bill deletes a reference to the economic development  
15 authority, which is no longer involved in the community service  
16 employment program; changes the terminology relating to the  
17 senior internship program, which has been replaced by the older  
18 American community service employment program; and aligns  
19 provisions relating to the prevention of elder abuse, neglect,  
20 and exploitation in accordance with the federal Older Americans  
21 Act.

22 The bill repeals Code chapter 249H, relating to the senior  
23 living program, but retains the senior living revolving loan  
24 program fund. The senior living trust fund was depleted at the  
25 end of FY 2011.